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DEPARTMENT OF EDUCATION

34 CFR Chapters I-VI

RIN 1894-AA05

[Docket ID ED-2013-OII-0110]

Proposed Priority -- Promise Zones

AGENCY: Department of Education.

ACTION: Proposed priority.

SUMMARY: The Secretary of Education (Secretary) proposes a priority that the Department of Education (Department) may use for any appropriate discretionary grant program in fiscal year (FY) 2014 and future years. We take this action to focus Federal financial assistance on expanding the number of Department programs and projects that support activities in designated Promise Zones.

This action will permit all offices in the Department to use this priority, as appropriate, in any discretionary grant competition.

DATES: We must receive your comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments by fax or

email. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- Federal eRulemaking Portal: Go to www.regulations.gov to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under "How to Use This Site."

- Postal Mail, Commercial Delivery, or Hand Delivery: If you mail or deliver your comments about these proposed regulations, address them to Jane Hodgdon, U.S. Department of Education, 400 Maryland Avenue SW., room 4W219, LBJ, Washington, DC 20202-3970.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at www.regulations.gov. Therefore, commenters should be careful to include in their comments only information they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Jane Hodgdon. Telephone: 202-453-6620. Or by email: Jane.Hodgdon@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding this proposed priority.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from this proposed priority. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this notice by accessing Regulations.gov. You may also inspect the comments in person in room 4W335, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the

comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

Program Authority: 20 U.S.C. 1221e-3, 3474.

PROPOSED PRIORITY:

Background:

The Secretary proposes a priority that the Department may use, as appropriate, for discretionary grant competitions in FY 2014 and future years. This priority will allow the Department and, by extension, program participants to focus limited Federal resources in designated Promise Zones. The Secretary recognizes that this priority will not be appropriate for all discretionary grant programs.

A child's zip code should never determine his or her destiny; but today, the neighborhood a child grows up in affects his or her odds of graduating from high school, health outcomes, and lifetime economic opportunities. Collaborative efforts among private businesses and Federal, State, and local officials; faith-based and non-profit organizations; and families, children, and students can help change these odds and ensure that all children have

the opportunity to earn a decent living when they reach adulthood.

Since 2009, the President has provided tools to combat poverty, investing more than \$350 million in 100 of the Nation's persistent pockets of poverty. Building on those efforts, the President has announced an initiative to designate, over the next 4 years, 20 high-poverty communities as "Promise Zones" where the Federal government will partner with, and invest in, communities to create jobs, leverage private investment, increase economic activity, improve educational opportunities, and improve public safety. Co-led by the U.S. Departments of Housing and Urban Development, Education, Agriculture, and Justice, Promise Zones are part of the President's Ladders of Opportunity plan to ensure that hard-working Americans make it to the middle class.

Promise Zones will align the work of multiple Federal programs in high-poverty urban, rural, and tribal communities that have both substantial needs and a strong, evidence-based plan to address them. The five primary goals of Promise Zones are creating jobs, increasing economic activity, improving educational opportunities, reducing violent crime, and leveraging private investment. The initiative builds on lessons learned from existing

place-based programs, such as the Department's Promise Neighborhoods program.

In order to be designated as a Promise Zone, communities must demonstrate the strength and effectiveness of their local commitment through a competitive, transparent process managed by the U.S. Department of Housing and Urban Development and the U.S. Department of Agriculture. Designated Promise Zones must identify a set of outcomes they will pursue to revitalize their communities, develop a strategy to achieve and sustain those outcomes, and realign local, State, Federal and, as applicable, private resources accordingly. The Federal government will partner with the Promise Zones to help them access the resources and expertise they need, including the resources from the President's signature revitalization initiatives to ensure that Federal programs and resources support the efforts to transform these communities. Specifically, Promise Zones will: receive Promise Zones tax incentives, if enacted by Congress, to stimulate hiring and business investment; benefit from an intensive Federal partnership through collaboration with Federal staff to provide specialized technical assistance; and have increased access to additional investments that further the goals of job creation, additional private investments,

increased economic activity, improved educational opportunity, and reduction in violent crime.

For calendar year 2013, only communities that have previously been granted funds under one of a related set of Federal programs (Choice Neighborhoods, Promise Neighborhoods, Byrne Criminal Justice Innovation grants, Stronger Economies Together, Rural Jobs Accelerator, and Sustainable Housing and Communities) will be eligible to apply to the Department of Housing and Urban Development for designation as Promise Zones. Each of these programs is nationally competitive, and participation indicates a level of capacity among local institutions that promotes the success of Promise Zones.

In calendar year 2013, the Department of Housing and Urban Development is planning to propose for public comment eligibility requirements and selection criteria for future Promise Zones competitions. (For additional information about eligibility for a Promise Zone designation, draft selection criteria for 2013, and the selection process, please visit the Promise Zones Web page:

www.hud.gov/promisezones. The Department of Housing and Urban Development published a notice estimating the burden for applying for a 2013 Promise Zones designation in the Federal Register on August 7, 2013 (78 FR 48182).)

To ensure that the Department's discretionary grant programs can provide, where appropriate, the increased access to additional investments for Promise Zones, the Secretary proposes a priority for projects that will serve and coordinate with a federally designated Promise Zone.

Proposed Priority - Promise Zones.

Projects that are designed to serve and coordinate with a federally designated Promise Zone.

Types of Priorities: When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the Federal Register.

The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Priority: We will announce the final priority in a notice in the Federal Register. We will determine the final priority after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the Federal Register.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive

Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may--

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive order.

This proposed regulatory action is a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this proposed regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in

Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency--

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account--among other things and to the extent practicable--the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives--such as user fees or marketable permits--to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use

the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are proposing this priority only on a reasoned determination that its benefits would justify its costs. In choosing among alternative regulatory approaches, we selected the approach that would maximize net benefits. Based on the analysis that follows, the Departments believe that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this proposed regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs associated with this regulatory action are those resulting from statutory

requirements and those we have determined as necessary for administering the Department's programs and activities.

Intergovernmental Review: Some of the programs affected by this proposed priority are subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the contact person listed under FOR FURTHER INFORMATION CONTACT.

Electronic Access to This Document: The official version of this document is the document published in the Federal Register. Free Internet access to the official edition of the Federal Register and the Code of Federal Regulations is available via the Federal Digital System at:

www.gpo.gov/fedsys. At this site you can view this document, as well as all other documents of this Department published in the Federal Register, in text or Adobe

Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access document of the Department published in the Federal Register, by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department. Dated: October 21, 2013.

Arne Duncan,
Secretary of Education.

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